GARNISHMENT—CONTENTS OF SAFETY DEPOSIT BOX ARE SUBJECT TO WRIT.—The plaintiff obtained a court order, pursuant to the service of a writ of garnishment, directing a trust company, as garnishee, to open the safety deposit box of the defendant and deliver its contents to the sheriff, who should take such of the defendant's property as was liable to garnishment. The trust company refused to comply with the order. To open the box the company would have had to use force, no key being available but that of the defendant, who could not be reached. *Held,* that the court had the power to require the garnishee to open the box. *West Cache Sugar Co. v. Hendrickson et al. (Zion's Saving's Bank & Trust Co., garnishee)* (1920, Utah) 190 Pac. 946.

This appears to be well within the limits of the Utah Statute. 1917 Comp. Laws sec. 6730, amended 1919 Laws of Utah, 344. The weight of authority would seem to be in accord with the principal case. *Tillinghast v. Johnson* (1912) 34 R. I. 136, 82 Atl. 788, 41 L. R. A. (N. S.) 764. Authorities *contra* are cited in 20 Cyc. 1022.

PERSONS—ILLEGITIMATE CHILDREN—BENEFICIARIES UNDER WRONGFUL DEATH ACTS.—An action was brought by the state for the death of a woman, one of the beneficiaries being her illegitimate child. It was necessary to decide whether an illegitimate child could recover under the Maryland statute, in order to ascertain the relevancy of certain evidence. *Held,* that an illegitimate child could not recover, as the word "child" when used in a statute prima facie means legitimate child. *Washington, B. & A. Ry. v. State* (1920, Md.) 111 Atl. 164.

See COMMENTS, *supra,* p. 167.

PERSONS—VALIDITY OF A COMMON-LAW MARRIAGE UNDER A STATUTE.—The plaintiff brought suit for the annulment of a marriage, because the defendant's first husband was living at the time it was consummated. Several years later the defendant obtained a divorce from her first husband and the plaintiff, knowing this, lived with her for sixteen years afterwards. A statute required a license for the validity of a marriage. The defendant obtained an interlocutory decree in the lower court, awarding her alimony *pendente lite,* because a common-law marriage is prima facie valid. *Held,* (three judges *dissenting*) that the decree should be affirmed. *Sims v. Sims* (1920, Miss.) 85 So. 73.

Two questions are presented in the instant case, in view of the statute: (1) whether the cohabitation for sixteen years has resulted in a common-law marriage; (2) whether the statute admits the possibility of such a marriage. It has frequently been held in these circumstances that cohabitation after the impediment is removed results in a common-law marriage. See COMMENTS (1916) 26 YALE LAW JOURNAL, 145; (1917) 27 *id.* 702. Unless the words of the statute expressly declares a common-law marriage void, it is valid prima facie. (1916) 15 MICH. L. REV. 347.

PLEADING—ELECTION OF REMEDIES—CHOICE OF ONE OF TWO INCONSISTENT REMEDIES BARS THE OTHER.—The intervener had brought an action against the defendant for the conversion of her automobile. Subsequently she dismissed her action, and now she undertakes to recover possession of her car in specie. The plaintiff's answer was that by her former action she had elected to treat the automobile as the property of the defendant and was therefore precluded from prosecuting an action for the recovery of the specific property. *Held,* that the intervener could not recover. *Ireland v. Waymire et al. (Hill, Intervener)* (1920, Kan.) 191 Pac. 304.

Although the weight of authority is probably in accord with the principal case in holding that, when, with knowledge of the facts, the former owner sues for the value of the property converted, his election is complete and the other remedy

is no longer available, yet this doctrine has been severely criticized and appears to be unsound in theory. For a searching criticism see Keener, *Quasi-Contracts* (1893) 203-213. See also, Corbin, *Waiver of Tort and Suit in Assumpsit* (1910) 19 YALE LAW JOURNAL, 221, 239; (1919) 28 YALE LAW JOURNAL, 409.

TAXATION—INHERITANCE TAX—PROPERTY BEQUEATHED UNDER POWER OF APPOINTMENT NOT TAXABLE AS PART OF DONEE'S ESTATE.—The plaintiff executor was forced to pay a sum of money to the tax collector on the transfer of the estate of the testator under the Federal Estate Tax Act, Sept. 8, 1916, sec. 202. The tax was levied upon the whole estate, including certain property over which the testator held a power of appointment from another, who had died before the passage of the act. The plaintiff claims, that, construed by the laws of Pennsylvania, the tax was assessed on the property which passed under the power of appointment as the estate of the donor, and that this property should not be taxed as the estate of the donee. *Held,* that the plaintiff should recover the amount paid on the property transferred under the power of appointment. *Lederer v. Pearce* (1920, C. C. A. 3d) 266 Fed. 497.

This appears to represent the line of decisions which hold that the creation of the power of appointment rather than its exercise is considered as the act effecting a taxable transfer. The case illustrates how the federal tax operates differently in each state, according to the state laws. For a discussion of the principle, see (1918) 28 YALE LAW JOURNAL, 92 and authorities there cited. See also Gleason & Otis, *Inheritance Taxation* (1917) 109, 484.

TORTS—HARBORING AND EMPLOYING A RUNAWAY SERVANT—INVOLUNTARY SERVITUDE.—A share cropper in the employ of the plaintiff definitely repudiated his contract. Later he was employed by the defendant, who had knowledge of the facts. *Held,* that the defendant was not guilty of a tort, because a contrary rule would create an involuntary servitude forbidden by the Thirteenth Amendment. *Shaw v. Fisher* (1920, S. C.) 102 S. E. 325.

See COMMENTS, *supra,* p. 174.